

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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TONYA DAVIS,

97 CV 4649

Plaintiff,

MEMORANDUM

AND

ORDER

-against-

BUDGET RENT A CAR SYSTEMS, INC.,
and LAMIN DUMBUYA,

Defendants.

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MARVIN E. KRAMER & ASSOCIATES
(Evan J. Polansky, of counsel)
1325 Franklin Avenue, Suite 165
Garden City, NY 11530
for plaintiff

REARDON & SCLAFANI
(Michael V. Sclafani, of counsel)
3 Executive Blvd.
South Westchester Executive Park
Yonkers, NY 10701
for defendants

NICKERSON, District Judge:

Plaintiff, by counsel, brought this personal
injury action in state court in Queens County. On

August 12, 1997 defendants removed the case to this court pursuant to 28 U.S.C. §§ 1332, 1441(a) and 1446(b). After plaintiff failed to cooperate with counsel and could no longer be contacted plaintiff's counsel moved to withdraw as attorney of record. Defendants moved to dismiss the case for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b).

On April 17, 1998 plaintiff's counsel and defendants appeared before the court. After hearing oral argument the court granted plaintiff's counsel leave to withdraw and dismissed the complaint. The court allowed plaintiff 60 days to appear with new counsel and to move to vacate the dismissal order.

To this date plaintiff has failed to appear. The motions are granted. The complaint is dismissed with prejudice. The Clerk of Court is directed to close the case.

So ordered.

Dated: Brooklyn, New York
August 6, 1998

Eugene H. Nickerson
Eugene H. Nickerson, U.S.D.J.